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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/613,160	07/10/2000	Chang-Hoi Koo	678-515(P9466)	9210
28249	7590	11/02/2004	EXAMINER	
DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. UNIONDALE, NY 11553			BLOUNT, STEVEN	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/613,160

Applicant(s)

KOO ET AL.

Examiner

Steven Blount

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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CLAIM REJECTIONS - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4 - 5, 8, 12 - 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 6,519,233 to Gutierrez in view of U.S. patent 6,078,572 to Tanno et al.

With respect to claim 1, Gutierrez teaches, in a CDMA system, designating a reverse common channel (see col 9 lines 59+ and col 7 lines 30+) wherein the base station sends a "designated mode assignment" for which the credit card machine is to use to respond on with the data that the credit card machine 116 (it is noted that while credit card 116 is not per se a mobile unit (at least apparently), the general process is applicable to devices such as the "data unit 112" mentioned in the previous paragraph) has remaining of which the base station is aware (see col 7 line 28). As mentioned in col 7 line 32 and col 9 lines 55 to col 10 lines 1+, and col 7 lines 20+, a message is generated by the base station requesting the extra data, using the initiated data mode. It is also mentioned in col 6 lines 43+ that the reverse channels may be distinguished by the use of different PN codes.

Gutierrez does not, however, teach sending a parameter that indicates an action time, as described in the specification on page 16, lines 7+: "action time is set to an appropriate value considering the time until the BS receives a response message from the MS after the MS receives a forward common channel message from the BS" although Gutierrez does discuss that "the base station may assign one or more slots to the data terminal 112 for a designated mode data burst" (col 7 lines 5+).

Tanno teaches sending, from the base station to a mobile unit, information relating to transmission from the mobile station, on the reverse channel, to the base station, including (in addition to the spreading code) the "action time" as defined in the specification, and discussed above. See col 10 lines 20+, col 7 line 57, col 8 lines 28+, and col 10 lines 18+.

It would have been obvious, to one of ordinary skill in the art at the time of the invention, to have provided Gutierrez with a means for including the action time in the information that it sends to one it mobile units shown in figure 1, in light of the teachings of Tanno, in order to take account the time it takes the base station to receive a response message from the mobile unit after the mobile unit receives its message from the base station.

Claim 4: note the discussion of a data burst message.

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Claim 5: see the rejection of claim 1 and with respect to the reservation time, see col 4 lines 40+ and col 6 lines 30+ of Gutierrez.

Claim 8: see the rejection of claim 1 above, including the discussion of designating the spreading code in the message sent to the mobile in Tanno.

Claims 12 - 13: each of the elements is discussed with respect to claim 1.

Claims 14 - 15: see the rejections above, and note that the parameters sent are of a signaling nature which would obviously be generated through the use of a signaling layer or a related group of signaling means such as a collection of software in the base Station for carrying out this process.

Claim 20: see the rejection of claim 1 where all of the claimed elements are discussed.

3. Claims 2, 6, 9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 6,519,233 to Gutierrez in view of U.S. patent 6,078,572 to Tanno et al as applied to claims 1, 4 - 5, and 8 above, and further in view of U.S. patent 6,330,462 to Chen.

With regard to claim 2, note that Gutierrez teaches designating a power control channel in col 14 lines 15+, and, while Gutierrez discusses the relation between different data rates in relation to the power control, Gutierrez does not explicitly teach sending the data rate as one of the parameters sent to the mobile station along with the action time.

Chen teaches sending data rate to the receiver in a patent which describes a method of providing power control. See col 4, lines 30+ (high rate notification).

It would have been obvious to one of ordinary skill in the art to provide Gutierrez/Tanno et al with a means for sending data rate information to the mobile unit, in light of the teachings of Chen, in order to provide a means for providing optimum data rate transfer to the mobile unit as well as possibly also being used to assist in the proper power control.

With regard to claims 6, 9, and 11, see the rejections above.

4. Claims 3, 7, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 6,519,233 to Gutierrez in view of U.S. patent 6,078,572 to Tanno et al and U.S. patent 6,330,462 to Chen as applied to claims 2 and 9 above, and further in view of U.S. patent 6,091,717 to Honkasalo et al.

With regard to these claims, Gutierrez/Tanno et al/Chen teach the invention as described above, but do not teach the use of an ESN mask. This is taught in Honkasalo. See col 3, lines 1+.

5. Claims 16 - 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 6,519,233 to Gutierrez in view of U.S. patent 6,078,572 to Tanno et al as applied to claims 1, 4 - 5, 8, and 12 - 15 above, and further in view of U.S. patent 6,671,286 to Rinne et al.

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Gutierrez/Tanno et al teach the invention as described above, but do not teach constructing a message out of the transmission data and channel indicating parameters by a link access control layer (claims 16 - 17) or through the use of a MAC layer (claims 18 - 19).

Rinne et al teach both of these methods in figure 2 (L2) and also col 3 lines 38+.

#### RESPONSE TO ARGUMENTS

6. Applicant's arguments filed 7/6/04 have been fully considered but they are not considered persuasive.

Applicant argues, on page 2, lines 22 - 23, that "Neither Gutierrez nor Tanno et al teaches or discloses that a common channel is designated as a dedicated channel." The examiner respectfully disagrees.

The examiner notes that the reverse channel is a common channel, as is described in Gutierrez in col 4, lines 21+, col 6 lines 45+ (RCCCH), and, particularly, col 6 lines 65+ to col 7, lines 19+. The examiner also notes that Gutierrez also teaches, in col 7, lines 3+, that "In reserving an R-CBCH, the data terminal 112 transmits a designated mode reservation request message to the base station 102 on the R-CBCH", such that Gutierrez teaches a common channel which becomes designated as a dedicated channel upon the sending of the information from the base station which completes the formation of this dedicated channel: "The data terminal 112 then waits for the assigned time slot and begins transmission of the data burst on the R-CBCH" (col 7, lines 10+). See also col 7, lines 1+: "When transmitting on a given R-CBCH in this manner (i.e., by reservation and/or designation), contention is avoided for that specific R-CBCH channel."

#### CONCLUSION

7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Examiner Steven Blount may be reached at 703-305-0319 between the hours of 9:00 and 5:30 Monday through Friday.

SB



10/28/04

  
Ajit Patel  
Primary Examiner